



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 1258-99
11 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Marine Corps on 2 March 1993 after more than 16 years of prior active service. You served without incident until 3 April 1997 when you were convicted by a special court-martial of maltreatment of a subordinate by creating a hostile work environment. The sentence consisted of forfeitures of \$1550 per month for three months and a letter of reprimand. The court could have sentenced you to a bad conduct discharge, confinement at hard labor for six months, and forfeiture of one-half pay per month for six months.

The Board noted your request for the expungement of the special court-martial. In this regard, the Board is prohibited by law (10 U.S.C. 1552[f]) from reviewing the findings of a court-martial and must restrict its review of determining if the sentence of the court-martial should be reduced as a matter of clemency. While the Board noted your contentions, the Board also noted the circumstances of the offenses and could not find

sufficient mitigating factors to warrant sentence relief. In this regard, the Board noted that the sentence adjudged was well below the statutory maximum punishment. The Board also noted your performance of duties prior to and subsequent to the special court-martial, but found it was insufficient to warrant relief. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director